THE HONOURABLE SHRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No. 8788 OF 2007

Dated 6th August, 2007

Between:

Vemula Venkaiah and others.

…Pettioners

And

The Special Deputy Collector (L.A.),
Unit-II, Telugu Ganga Project,
Mamillapalle, Kadapa, Kadapa District and others.

…Respondents.

ORAL ORDER:

The petitioners, 10 in number, seek a direction to the respondents to finalise the proposals for payment of ex gratia in terms of G.O.Ms.No. 192, Irrigation and Command Area Development Department, dated 2.12.1998 as per the SSR Rates of 2002-2003.

The Government, at the first instance, had considered the issue relating to payment of compensation to the assigned lands when they are resumed for public purpose in G.O.Ms.No.1307, Revenue (Assignment-I) Department, dated 23.12.1993. In the said G.O., while reviewing the earlier orders, it has ordered for payment of lumpsum ex gratia equivalent to the market value to the assignees whose lands are resumed for the projects and other public purposes. It is made clear in the above G.O. that the amount has to be treated as ex-gratia and the assignees are not entitled for seeking references under Sections 18 and 28-A of the Land Acquisition Act to the courts and are also not entitled for interest or additional market value under the provisions of the Land Acquisition Act. Later, in G.O.Ms.No.192, Irrigation and C.A.D. (P.W.-TGP.II (2) Department, dated 2-12-1998, the Government also issued orders for payment of compensation to certain unauthorized and non-dwelling structures existing in the lands acquired for project purposes. In the aforesaid G.O., the Government ordered for payment of compensation to structures in the lands acquired for irrigation projects which were existing on ground for more than 10 years and they should be treated as eligible for payment of ex-gratia in terms of G.O.Ms.No.1308, Revenue, dated 23.12.1993. It is further ordered that the occupants/encroachers who are otherwise eligible landless poor persons shall be regularized by issuing D-

Form pattas so as to make them eligible for payment of ex-gratia.

In this case, the petitioners raised structures in the lands covered by Survey Nos. 625/2 and 625/3 of Kunta Porambok of Malinenipatnam village. The entire village of Malinenipatnam was notified under the provisions of the Land Acquisition Act, for the purpose of Telugu Ganga Project. The notification under Section 4(1) of the Land Acquisition Act was issued in the year 1996 and the awards were passed in the year 1998. On representation made by the petitioners on 31.5.2004, the District Revenue Officer, forwarded the same to the Special Collector (Land Acquisition), Telugu Ganga Project. On the said representation, the Executive Engineer, S.S.P. Division –IV also furnished valuation statements for an amount of Rs.17,43,405 for 10 structures by adopting the SSR rates of 1997-1998. It is the case of the petitioners that in the adjoining village, the respondents are paying ex gratia for the structures in the government lands by applying SSR rates of 2002-2003 and, therefore, there is no reason for not extending the same benefit to the petitioners.

Counter-affidavit is filed on behalf of the respondents. While generally denying the allegations of the petitioners, it is stated that no assignments were made to the petitioners before construction of the houses. It is stated that only for the purpose of extending the benefit of ex-gratia as contemplated in G.O.Ms.No.192, Irrigation and Command Area Development Department, dated 2.12.1998, D-Form pattas were issued for the structures, which existed on ground for the last 10 years. Further, it is averred that they are entitled for payment of ex-gratia equal to the market value paid to the other structures which were acquired in the village in the year 1998 with SSR rates of 1998-99 only subject to compliance of other conditions in G.O.Ms.No.1307, dated 23.12.1993 and they are not entitled for SSR rates of 2002-03.

In this writ petition, it is submitted by the learned counsel for the petitioners that as much as the houses of the petitioners were

not taken possession along with the lands covered by notification under Section 4(1) of the Land Acquisition Act, they are entitled for compensation as per SSR rates of 2002-03.

With regard to the above contention, it is to be noticed that it is not in dispute that the entire village of Malinenipatnam was acquired for the public purpose of Telugu Ganga project. It is stated that the petitioners had constructed structures unauthorisedly in the Kunta Poramboke land. As the said structures existed in the land, which vested with the Government, there was no occasion for notifying the said land under the provisions of the Land Acquisition Act, 1894. But, however, when representations were made by the petitioners, the respondents in order to extend the benefit of G.O.Ms.No.192 dated 2.12.1998 and subject to compliance of G.O.Ms.No.1308 dated 23.12.1993, granted D-Form pattas to them. It is stated in the counter affidavit that those structures are not covered by the notifications issued under Section 4(1) of the Land Acquisition Act during the year 1996-97. So far as the village of Malinenipatnam is concerned, even for the private properties notification under Section 4(1) of the Land Acquisition Act was issued in the year 1996 and awards were passed in the year 1998. Merely because the petitioners were not physically dispossessed along with the structures in the year 1996, the petitioners cannot claim any higher compensation based on SSR rates of 2002-03. It is stated that the valuation was adopted by taking into account the SSR rates of 1997-98. Further, it is also not a case to claim compensation on par with the other lands acquired, because these lands were not assigned to the petitioners before the structures were raised. The petitioners on their own unauthorisedly raised structures and only to make them eligible for payment of ex gratia as per G.O.Ms.No.192, dated 2.12.1998, D-Form pattas were issued to them. As much as the structures in other lands which were required for public purpose were notified in the year 2001, the rates of SSR 2002-03 were adopted. But, so far as Malinenipatnam village is concerned, as the

award was passed in the year 1998, the petitioners are not entitled to seek ex gratia based on SSR rates of 2002-03. In that view of the matter, I do not find any merit in the writ petition. However, with regard to the claim of the petitioner, appropriate final orders shall be passed within a period of two months from the date of the receipt of a copy of this order.

Subject to above direction, the writ petition is disposed of. No costs.

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6-8-2007

R.SUBHASH REDDY, J.

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